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BEFORE THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
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Good morning Mr. Chairman, Members of the Subcommittee, and guests.

Thank you for the opportunity to be here today to discuss our oversight of the federal government's pre-disaster planning and contract management issues in the response and recovery efforts after Hurricane Katrina. I will focus my remarks on the Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA) contract oversight and monitoring, including transitional housing (travel trailers and mobile homes), debris removal, and the Blue Roof program.

In the aftermath of a major disaster such as Hurricane Katrina, the federal government is obligated to ensure that immediate steps are taken to protect the lives and property of its citizens and take measures to mitigate further damage or harm. Among its responsibilities is to ensure that roads are cleared of debris to allow emergency workers access to affected areas, provide temporary shelter or housing to disaster victims that lose their homes, and provide minimum repairs to buildings to enable victims to remain in their homes and prevent further damage. It is also critical that the federal government provide these services quickly and at a reasonable cost.

My testimony will discuss how well the federal government planned for and managed these activities. Unfortunately, as my testimony indicates, there are many weaknesses in the federal government's pre-disaster planning and contract management efforts. These findings are not only emerging from our work, but from that of other federal agencies. The Government Accountability Office (GAO), Congress, and the Administration are all finding that the government's planning, contracting, and contract monitoring fell woefully short in response to this season's Gulf Coast hurricanes.

We are still in the process of fully evaluating the overall contracting efforts related to Hurricane Katrina. However, our work thus far has disclosed that:

- FEMA either purchased supplies, commodities, equipment and other resources to support emergency and disaster response efforts in insufficient quantities or over-purchased commodities, because requirement planning prior to Katrina was inadequate,
- The government, in many instances, did not pay reasonable prices for goods and services because competition was limited or non-existent and,
- Costs and prices were not always controlled, because the government's contract oversight and monitoring was inadequate.

**OVERSIGHT:
PRE-DISASTER PLANNING AND CONTRACT MANAGEMENT**

The Role of the Federal Inspectors General

To understand the oversight work that's being conducted and how it's managed, it is necessary to get a comprehensive picture of the collaboration within the federal Inspector General (IG) community. In the wake of Hurricane Katrina and due to the large sums of money made available for the recovery effort, the need for oversight was unprecedented. The federal IGs, through the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), offered the capacity needed for consistent reporting and the preventive interaction to oversee the billions in recovery dollars. The federal IG community was a natural fit for oversight and stewardship of the recovery funding effort.

Just prior to Hurricane Katrina, the PCIE/ECIE had established a Homeland Security Roundtable to deal with government-wide homeland security related issues. After Hurricane Katrina, the Homeland Security Roundtable served as the forum for the IG community to plan and discuss hurricane recovery oversight. The Roundtable members meet regularly to share information and collaborate. Each participating IG provides oversight of federal dollars for their respective agencies whether the funding was from a direct appropriation or through a mission assignment from FEMA.

The result being that no one agency is responsible for all oversight and stewardship activities. The benefit of this organizational structure is that each agency is best able to monitor and investigate its own recovery responsibilities. As a result, greater oversight is taking place and oversight efforts are not being duplicated. In addition, the PCIE/ECIE established a central hotline to handle reports of fraud, waste, and abuse throughout the Gulf Coast.

Pre-Disaster Planning and Acquisition

The Federal Acquisition Regulation (FAR) requires agencies to perform acquisition planning and conduct market research for all acquisitions in order to obtain competition to the maximum extent practicable. According to the Homeland Security Acquisition Manual and the FAR, formal acquisition plans are not required for emergency acquisitions, i.e., when the need for the supplies/services is of such an unusual and compelling urgency that the government would be seriously injured if the supplies/services were not immediately acquired.

FEMA's core mission is to respond to emergencies and procure emergency supplies and equipment, e.g., travel trailers, mobile homes, base camps, food, ice, etc., on a recurring basis. Therefore, planning for these procurements would represent sound business practice. Because of the unpredictable nature of emergency operations, such planning cannot always be used to select specific sources in advance of a disaster. However, for

each major type of procurement, i.e., travel trailers, mobile homes, base camps, etc., pre-disaster planning can address the following:

- Identify prospective sources of supplies and/or services, including sources identifiable through government-wide and industry association databases using market survey approaches;
- Delineate how competition will be sought, promoted, and sustained during emergency operations;
- Describe how Stafford Act requirements for preferences of firms affected by the disaster will be met;
- Layout source-selection procedures for each type of procurement;
- Establish communications systems and processes and publicize them in order that prospective sources know how to contact FEMA procurement personnel.

The above pre-disaster planning did not take place; therefore, FEMA found itself in an untenable position and hastily entered into contracts with little to no contract competition for disaster commodities.

Although every disaster is unique, many of the response requirements are the same. Pre-disaster planning should include establishing standby or call contracts with vendors to provide essential goods and services required to facilitate immediate response operations or to meet the needs of disaster victims. Call contracts for ice, water, food, tarps, transportation, travel trailers, and other items commonly procured shortly after disasters strike should be in place and ready to execute on short notice. A call contract allows for costs, specifications, terms and conditions to be negotiated in advance negating the need for intensive contract negotiations during a crisis. This is a common business practice in other federal agencies, including the Corps of Engineers and the Forest Service.

Competition in Contracts

Understandably, in the aftermath of a disaster, government agencies award contracts under expedited contracting methods, as authorized by FAR, in order to provide a timely response to victims' needs. In response to Katrina, DHS alone awarded approximately 3,400 contracts worth approximately \$5.3 billion. More than 1,000 of the contracts were valued in excess of \$500,000, but less than half were awarded under full and open competition. We are currently reviewing the terms and conditions of all contracts over \$500,000 and other Offices of Inspector General (OIG) are doing the same. In addition, we are conducting reviews of invoices, focusing on high-risk contracts.

Shortly after Hurricane Katrina struck, FEMA awarded four major contracts for technical assistance in the gulf region. Technical assistance primarily involves the installation, operations, maintenance and deactivation of housing facilities such as travel trailers and mobile homes. We reviewed the source selection process for each of the major Technical Assistance Contracts (TAC), but could not find complete written records of the source selection process to determine how these firms were selected.

FEMA awarded contracts to the TAC contractors under a sole source basis. The four major TAC contractors are among the top 50 construction contractors in the country according to the Engineering News Record (ENR) magazine, therefore are technically qualified to perform the work. However, FEMA did not provide sufficient documentation regarding the process used to select these firms over other firms listed in ENR's Top 50 Engineering Firms. Of the companies selected by FEMA, one ranked first and a second ranked fourth, while another ranked 15th and the fourth ranked 50th. The lack of source selection documentation created the appearance of bias or favoritism.

We understand that FEMA is in the process of re-competing each of these contracts. And, recently, FEMA awarded more than 20 contracts to local and small businesses in the Gulf Region to perform some of the work (maintenance and de-activation of travel trailers) previously performed by the large TAC contractors.

Additionally, FEMA made use of what it termed "limited competition" procedures in awarding contracts in response to Hurricane Katrina. As FEMA defined it, "limited competition" involved calculating a unit price range that FEMA determined was reasonable for the products or services being procured, such as travel trailers, and awarded contracts to contractors who were contacted by FEMA and provided quotes within unit price range determined to be reasonable. The term "limited competition" is not a process that is recognized by the FAR, although it does allow agencies to obtain competition "to the maximum extent practicable" for compelling and urgent reasons. While the practice of using "limited competition" provides a means of ensuring contracts are awarded with unit prices that are determined to be reasonable, the lack of objective evaluation criteria for determining which firms received smaller contracts and which firms received significantly larger contracts again provides a basis for charges of bias or favoritism.

To be effective in fostering competition to the maximum extent possible, acquisition plans should use public information strategies to identify FEMA procurement points of contacts and proposal evaluation criteria for major products. Therefore, well-connected vendors would not have a significant advantage in contacting FEMA procurement personnel following a disaster and receiving the lion's share of the contract awards. State economic development offices, chambers of commerce, and industry associations could be used by FEMA in developing appropriate public information strategies. Here again, this approach could have helped prevent charges of favoritism and more equitably distributed contract awards as well as address the issues of fair and reasonable pricing and Stafford Act requirements for local preferences.

Price Reasonableness

Limited competition results in limited assurance that the prices the government pays are reasonable. The media has already reported many cases in which procurement personnel authorized contractors to begin work without a definitive statement of work, often on a sole-source basis with no attempt to independently estimate costs. While many

contractors performed their work efficiently and in good faith, there were instances where there were problems. In some cases, the government will have little legal recourse to recoup payments from contractors awarded questionable contracts.

Also, FEMA maintained little or no documentation regarding price reasonableness in many contract files. The FAR requires contracting officers to document the determination of fair and reasonable pricing. It also requires that the company size standard be specified in the solicitation so that offerors can appropriately represent themselves as small or large businesses. Further, according to the FAR, “All factors and significant subfactors that will affect contract award and their relative importance shall be stated clearly in the solicitation.”

In many of the files that we reviewed, there were no contract files checklist or record of supervisory review and approval. With the high volume of procurement activity within such a short period of time, documentation providing an explanation of the source selection process and the determinations of cost reasonableness was not prepared for many contracts. While we recognize that Hurricane Katrina was a disaster of major proportions, use of streamlined documentation procedures to meet the FAR requirements would not have appreciably impeded FEMA’s contracting efforts to provide expedited assistance to the disaster victims.

Contract Oversight and Monitoring

Effective contract oversight and monitoring is necessary to ensure that the government gets what its contracts call for and that costs are controlled. However, it requires sufficient numbers of adequately trained staff to ensure that this occurs. Inadequate contracting staff and a shortage of Contracting Officer Technical Representatives (COTRs) hampered FEMA’s ability to effectively monitor Katrina response contracts.

According to the Center for Strategic Supply Research, contracting personnel industry-wide are responsible for an average of \$21.1 million annually. As of March 13, 2005, FEMA awarded \$5.3 billion in procurements to support the Gulf Coast recovery efforts. FEMA had approximately 55 contracting personnel that were assisted by temporary deployments of General Services Administration contracting personnel. Based on these data, we estimate that each of the contracting staff was responsible for an average of \$163 million on an annualized basis. This \$163 million average is more than seven times the industry average. The workload simply overwhelmed the capacity of the contracting staff. Additionally, requirements of various federal procurement regulations, including the FAR, the Small Business Act, and the Stafford Act, further exacerbated the problems faced by the contracting staff.

Once contracts were awarded, lack of trained and experienced staff to oversee the contracts was evident. Contract oversight is essential to ensure that the government receives the goods and services it procured consistent with the terms of the contract. However, there were instances where contractors were delivering products, such as trailers and mobile homes, where the products were not inspected before acceptance, and

the cognizant FEMA Contracting Officer Technical Representative was 50 miles away at a separate receiving station. Additionally, GAO has reported that FEMA's contracts for installing temporary housing in four states had only 17 of the 27 technical monitors that had been determined necessary to oversee contractor performance.

FEMA is aggressively recruiting contracting officers and COTRs to augment its contract staff. In addition, it established a separate contract office to handle procurement activity for the gulf region. These are important first steps to provide additional oversight, controls, and support for recovery operations throughout the gulf coast region. More importantly, it positions FEMA to better meet the procurement demands for future disasters.

TRAVEL TRAILERS/MOBILE HOMES

In response to Hurricane Katrina, there was little evidence of either formal or informal acquisition planning processes in the majority of FEMA procurements awarded for transitional housing, including travel trailers and mobile homes. Many contract files did not contain any source selection information and there was no apparent source selection process for the contract awards. For example, while some large contracts were awarded to firms who were well-established leaders in the industry, other large contracts were awarded to firms with little or no industry experience for the product procured.

In its effort to provide travel trailers to victims quickly, FEMA purchased over 27,000 travel trailers "off the lot" from 300 local firms. In this case, the immediate need for housing likely overshadowed the need for planning, but nonetheless, FEMA risked receiving unusable trailers when it did not include any specifications in the contract.

Additionally, FEMA did not use standard templates for contract specifications for many of the products or services being procured despite the fact that they were procured on a regular basis. For example, we reviewed a number of procurements for off-the-lot purchases of travel trailers and there were no minimum government requirements listed in the contract, only the travel trailer vehicle identification number. Since no minimum government requirements were listed, the contractors did not have any requirement to provide trailers in working order. In other purchases, the only specification requirements listed were, "Must have furniture, AC/Heat and Microwaves (basic amenities only)" and "No toy haulers, 5th wheels or pop ups." While the above requirement is better than no specification, it does not clearly state the government's minimum needs. Therefore, vendors could submit trailers with significantly different levels of amenities, i.e., with or without bathroom, beds, dinettes, refrigeration, electrical outlets, water heaters, ranges, etc., that may or may not meet the government's minimum needs.

FEMA purchased 24,967 manufactured homes at a cost of \$862.7 million and 1,755 modular homes at a cost of \$52.4 million in response to the need for transitional housing to assist displaced evacuees from Hurricanes Katrina and Rita. Due to the large number of homes purchased and the need to prepare sites before distributing the homes, FEMA

granted a mission assignment to the United States Forest Service to set up eight emergency housing storage sites, including one in Hope, Arkansas and one at Red River Army Depot (RRAD) in Texarkana, Texas. Most importantly, FEMA had no plans for how the homes would be used before they were purchased. Subsequently, there are currently 17,055 mobile homes and 5,707 travel trailers staged at eight emergency housing sites waiting to be used.

GAO reported that, in November, FEMA's contracts for installing temporary housing in four states had only 17 of the 27 required monitors. Even now, FEMA staff in New Orleans have related to our auditors that there is inadequate monitoring of the TACs because there are too few COTRs, their rotation periods do not overlap so the arriving COTR has not been sufficiently briefed by the departing COTR, and many of the COTRs are borrowed from other agencies and are not familiar with FEMA temporary housing contracts. Some FEMA staff alleges that the TAC contractors are "running the show." We are conducting a comprehensive review of the four TAC contractors and plan to issue a report on their performance later this year.

We also found that FEMA's Housing Area Command (HAC), responsible for coordinating temporary housing throughout the affected area, worked independently of other FEMA field organizations and contributed to problems with contract oversight. The HAC did not communicate its activities and requested contractors to perform additional work without coordinating or receiving approval of the COTR. Consequently, the COTRs were not afforded the opportunity to effectively document and oversee the TACs' work. One of our concerns is the rejected sites for placing travel trailers for evacuees. We are reviewing nine sites that were rejected, for various reasons, after an estimated total of \$3.7 million was spent preparing the sites.

DEBRIS REMOVAL

Under the Stafford Act, states have the option of using the Corps of Engineers (COE) to provide debris removal or enter into direct contracts. When using COE, FEMA will pay the full cost of debris removal during the response period, usually the first 72 hours after the disaster declaration, but often extended during a catastrophic event. For example, the response period in Louisiana has been extended to June 30, 2006. FEMA will pay 100 per cent of all debris removal costs performed by the COE through the end of June. After June, if the response date is not extended or state matching requirements waived, the state will be expected to pay a matching share of the costs. If a state decides to contract directly, it will be reimbursed by FEMA under a Public Assistance grant, but must pay a matching share unless waived. In Louisiana, about half of the parishes are using the COE and the rest are contracting for debris removal work to be reimbursed by FEMA.

We are in the process of auditing debris removal grants awarded to the states. In the past, we have waited until most or all the work was completed before starting the audit. The amount of destruction and resulting debris from Hurricanes Katrina, Rita, and Wilma created unprecedented debris removal operations estimated at several billion dollars. As

a result of this massive effort, we initiated audits of a number of debris removal grants with a goal of identifying and preventing problems before they occur. Specifically, we are looking at the reasonableness of debris removal contracts, the types of awards, and the terms and conditions. In the past, we found cases of price gouging, non-arms length transactions, bribery, and false or padded billings. Some of our work resulted in arrests and convictions. Other work identified significant ineligible or questioned costs that required reimbursement to the government.

Effectively monitoring debris removal contracts is especially critical. We are reviewing local governments contracts for debris removal to make sure they have adequate controls for monitoring. Local governments in Alabama have awarded \$37 million in debris removal contracts. Thus far, we are finding that local governments are complying with procurement requirements and including adequate monitoring provisions in the contracts. However, there are problems. For example, one local government hired a contractor to monitor the debris removal contractor, but the monitoring contractor was charging a significantly higher pay rate, one equal to an experienced engineer rather than a professional or supervisory staff. Based on past experience, we believe the pay rates for debris monitors should be significantly lower.

We have also identified instances where the lack of competition has created contracting problems. In Louisiana, approximately half the debris removal is being accomplished under contracts with the COE. For the remaining half, parishes are awarding contracts for debris removal. We have performed partial reviews of the contracts in St. Bernard, Tammany, and Washington Parishes. In some cases the parishes had existing contracts that were competitively bid before the hurricane struck. The prices appear to be reasonable and the contracts well monitored. After Hurricane Katrina struck, other contracts were awarded with very limited competition and no price analysis. Some of these prices are excessive in comparison to industry standards. Our reviews are ongoing in Louisiana and Mississippi. We plan to continue our debris removal oversight throughout the response and recovery period.

THE BLUE ROOF PROGRAM

The Blue Roof program provides roof tarps for homes that sustained some, but not major, roof damage. The tarps are a short-term preventative measure to mitigate further home damage until permanent repairs can be made. In most cases, it allows victims to return to their homes shortly after the disaster thereby decreasing the need for temporary housing or shelters.

Traditionally, FEMA tasks the COE to install the blue roofs through mission assignments under a Presidential disaster declaration. FEMA purchases and stockpiles the tarps using its specifications for grade and quality. The COE is responsible for hiring crews for tarp installation.

There are a number of manufacturers that provide the tarps meeting the FEMA specifications. A sufficient inventory of the tarps were readily available after Hurricane Katrina and that prices paid were consistent with other disasters. We plan to continue to monitor the blue tarp purchases during the recovery efforts.

In closing, through our oversight efforts we have learned:

- FEMA scrambled to purchase supplies, commodities, equipment and other resources to support emergency and disaster response efforts from numerous vendors, because requirement planning prior to Katrina was inadequate;
- Call or standby contracts with pre-negotiated prices, quantities, terms and conditions, and specifications could have greatly facilitated post disaster procurement operations;
- In many instances, the government did not pay a reasonable price for its purchases, because competition was limited; and
- The government's contract oversight and monitoring was inadequate, resulting in cost and price variations.

Because of the nature of disaster operations, we understand that acquisition planning has to be sufficiently flexible to address the impact of the disaster on production capabilities and available on-site inventory. However, pre-disaster acquisition planning can balance the capabilities of distributors, wholesalers, retailers and manufacturers, and maximize the use of licensed manufacturers and dealers.

Although expedited contracting is an acceptable practice immediately after a disaster, it is reasonable that the government re-compete contractual requirements once the emergency period is over in order to introduce competition into the process and ensure that the government is getting a fair price. That is sometimes not being done in the post Katrina environment.

In our contracting reviews we have noted problems with inadequate contract files. Often there is little or no information on how price reasonableness was determined, whether specifications were included, and whether there was supervisory review. Specifications were especially poor for travel trailers purchased off the lot and for base camps set up to house evacuees, workers, and volunteers.

The issues raised in this hearing relate to the federal government's ability to make needed purchases in response to a disaster in a timely manner and for a fair price. In essence, the federal government's ability to plan effectively, contract and subsequently monitor disaster contracts. There were many weaknesses in the federal government's pre-disaster planning and contract management efforts. However, we hope that the lessons learned

from our findings will help address weaknesses and be better prepared for future disasters.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions.